

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 20 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

COMMISSIONER OF WEALTH TAX

Versus

ANILBHAI C PATEL

Appearance:

MR MANISH R BHATT for Petitioner
SERVED BY RPAD for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE KUNDAN SINGH

Date of decision: 02/02/98

ORAL JUDGEMENT

The Income-Tax Appellate Tribunal has referred the following question for the opinion of this Court under section 27(1) of the Wealth Tax Act, 1957.

"Whether the Appellate Tribunal is right in law and on facts in holding that the gratuity liability not provided in books is required to be deducted for the purpose of working out the break up value of shares under Rule 1D of the W.T.Rules, 1957 ? "

2. The assessee who is an individual had claimed that in determining break up value of shares, the liability of gratuity not provided in accounts should be allowed as deduction. The WTO rejected the claim but in appeal CWT(A) directed the WTO to re-determine the value of the shares of private limited companies after deducting the liability in respect of gratuity, of the concerned company on the valuation date. The Tribunal in appeal relying upon its earlier decision confirmed the order of CWT(A) and dismissed the appeal.

3. The provisions of Rule 1D of the Wealth Tax Rules, 1957 came up for consideration by the Supreme Court in the case of Bharat Hari Singhania reported in 207 ITR, page 1 and the Supreme Court holding that the said Rule was required to be followed in every case where unquoted equity shares of a company (other than an investment company or managing agency company) have to be valued. It was further held that while evaluating unquoted equity shares, under rule 1D, no deductions including the deduction on account of provision for gratuity were admissible. In view of the said decision of the Supreme Court in Bharat Hari Singhania's case, we hold that the Tribunal committed an error in holding that gratuity liability not provided in books was required to be deducted for the purpose of working out the break up value of shares under Rule 1D of the Wealth Tax Rules, 1957. The question referred to us is therefore, answered in negative, in favour of the revenue and against the assessee. This Reference stands disposed of accordingly with no order as to costs.

(R.K.Abichandani,J)

(Kundan Singh,J)

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